

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

HORTENCIA GARCIA

Plaintiff,

v.

HOBBY LOBBY STORES, INC.,

Defendant.

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CIVIL ACTION NO.
JURY TRIAL DEMANDED

DEFENDANT HOBBY LOBBY STORES, INC.'S
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441 and Local Rule CV-81, Defendant HOBBY LOBBY STORES, INC., (hereinafter referred to as “Hobby Lobby” or “Defendant”) hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

A.
THE REMOVED CASE

1. The removed case is a civil action first filed with the 352nd Judicial District Court of Tarrant County, Texas, on August 19, 2020, styled *Hortencia Garcia v. Hobby Lobby Stores, Inc.*, under Cause No. 352-335675-22.

B.
REMOVAL IS TIMELY

2. Plaintiff, HORTENCIA GARCIA, (hereinafter referred to as "Plaintiff"), filed the present civil lawsuit against Defendant HOBBY LOBBY in the 352nd Judicial District Court of Tarrant County, Texas (the "State Court Action"), on August 19, 2022. In the Plaintiff's Original Petition (the "Petition"), Plaintiff asserts a negligence cause of action based on premises liability against HOBBY LOBBY. Plaintiff served HOBBY LOBBY with the Petition on August 29, 2022.

3. Since the thirtieth day of service of the Original Petition falls on September 28, 2022, this Notice of Removal is filed timely pursuant to 28 U.S.C. § 1446(b).

C.
VENUE IS PROPER

4. The United States District Court for the Northern District of Texas, Fort Worth Division, is the proper venue for removal of the State Court Action pursuant to 28 U.S.C. § 1441(a) because the 352nd Judicial District Court of Tarrant County, Texas, is located within the jurisdiction of the United States District Court for the Northern District of Texas – Fort Worth Division.

D.
DIVERSITY OF CITIZENSHIP EXISTS

5. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

6. According to the Petition, Plaintiff is a resident of Tarrant County, City of Fort Worth and a citizen of the State of Texas. Defendant HOBBY LOBBY is a foreign corporation formed under the laws of the State of Oklahoma. Additionally, HOBBY LOBBY's principal place of business is located in Oklahoma City, Oklahoma. Pursuant to 28 U.S.C. § 1332(c)(1), HOBBY LOBBY is a citizen and resident of the State of Oklahoma.

7. Because the Plaintiff is a resident and citizen of the State of Texas and HOBBY LOBBY is a resident of the State of Oklahoma, complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. § 1332.

E.
THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

8. Plaintiff alleges in her Original Petition that she seeks monetary relief “over \$250,000.00 but more than \$1,000,000.00.”¹

9. Based on the aforementioned facts, the current State Court Action may be removed to this Court by Defendant in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Northern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy will exceed \$75,000, exclusive of interest and costs.

¹ See, “Plaintiff’s Original Petition” at p 4, ¶ 19.

F.
FILING OF REMOVAL PAPERS

10. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 352nd Judicial District Court of Tarrant County, Texas, in which this action was originally commenced.

11. Copies of all pleadings, process, orders, the docket sheet, and a list of all counsel of record in the State Court Action are attached to this notice as required by 28 U.S.C. §1446(a) and Local Rule 81. An index of matters being filed is also attached hereto as ***Exhibit “A”***.

G.
CONCLUSION

12. Defendant, HOBBY LOBBY STORES, INC., hereby prays that the above-captioned action be removed from the 352nd Judicial District Court of Tarrant County, Texas, and requests that further proceedings be conducted in the United States District Court for the Northern District of Texas, Fort Worth Division, as provided by law.

Respectfully submitted,

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By: /s/ Robin R. Gant

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***Attorneys for Defendant
Hobby Lobby Stores, Inc.***

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on September 28, 2022, the foregoing *Notice of Removal* was electronically filed, as required by the United States District Court for the Northern District of Texas, using the Court's CM/ECF filing system, which will provide notice and a copy of this document, with attachments, to the following, who are indicated to be registered ECF filers in the United States District Court for the Northern District of Texas:

Ricky Kempf
The Law Offices of Kelly T. Curran
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Dallas, Texas 75240

*Counsel for Plaintiff
Hortencia Garcia*

- ☐ E-Mail (E-Service@KTCLAWFIRM.com)
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Regular, First Class Mail
- ☒ CM/ECF
- ☐ Certified Mail/Return Receipt Requested

/s/ Robin R. Gant

Robin R. Gant